

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JACK FERM,
vs.
COLLEEN MCCARTY, et al.,
Plaintiff,
Defendants.)
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Case No. 2:12-cv-00782-GMN-PAL
ORDER
(Mtn for Stay/OTSC - Dkt. #68)

This matter is before the court on Defendants Colleen McCarty's, KLAS, LLC's, and Steve Kanigher's Motion to Stay and Request That Court Issue an Order Directing Plaintiff Jack Ferm to Show Cause Why He Should Not Be Deemed a Vexatious Litigant (Dkt. #68); Plaintiff Jack Ferm's Response (Dkt. #72); Defendants' Reply (Dkt. #90); Plaintiff's Second Response (Dkt. #75); and Defendants' Second Reply (Dkt. #96).

Defendants seek an order directing Plaintiff to show cause why he should not be deemed a vexatious litigant on the grounds that Plaintiff's Motion for Rule 11 Sanctions (Dkt. #42), Motion for Default (Dkt. #54), Motion for Leave to File an Amended Complaint (Dkt. #61), and Motion to Disqualify Defense Counsel (Dkt. #67) are frivolous, scandalous, and harassing. Defendants also request a stay of this case until the court rules on the pending dispositive motions. On October 23, 2012, the court held a hearing and granted Defendants' Motion to Stay (Dkt. #35). *See Minutes of Proceedings* (Dkt. #73); Order (Dkt. #100)

On January 28, 2013, the court entered an Order and Report of Findings and Recommendation (Dkt. #109) recommending Defendants' Motion to Dismiss (Dkt. #10) be granted, and Plaintiff's First Amended Complaint (Dkt. #5) be denied because Plaintiff had not adequately pled the court's subject matter jurisdiction or complied with Rule 8 of the Federal Rules of Civil Procedure. *See* Order and

1 R&R (Dkt. #109). Additionally, the court has granted Plaintiff's Motion to Withdraw the Motion for
2 Sanctions (Dkt. #49), denied Plaintiff's Motion to Disqualify, and recommended to the district judge
3 that Plaintiff's Motion for Leave to File an Amended Complaint and Motion for Default be denied.

4 Plaintiff now has leave to file a second amended complaint that establishes the court's subject
5 matter jurisdiction and complies with Rule 8 as directed in the court's Order and R&R (Dkt. #109).
6 The parties are only permitted to file a motion, a response, and a reply. There is no need for a second
7 response or a second reply, as the parties filed in this case. The Federal Rules of Civil Procedure and
8 the Local Rules of Practice allow parties to file only a motion, a response, and a reply, without express
9 prior leave of court. *See Fed. R. Civ. P. 7; LR 7-2(a)-(c); Hill v. England*, 2005 WL 3031136 at *1
10 (E.D. Cal. Nov. 8, 2005) (citing *Frederick v. Mercedes-Benz USA, LLC*, 366 F. Supp. 2d 1190, 1197
11 (N.D. Ga. 2005)). Unauthorized surreplies, supplements, addenda, and the like are not permitted and
12 will be summarily stricken.

13 Accordingly,

14 **IT IS ORDERED:**

- 15 1. Defendants' Motion for an Order to Show Cause (Dkt. #68) is DENIED.
16 2. Plaintiff's Second Response (Dkt. #75) and Defendants' Second Reply (Dkt. #96) are
17 STRICKEN.
18 3. Defendants' request for a stay is DENIED AS MOOT.

19 Dated this 29th day of January, 2013.

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PEGGY A. LEEN
22 UNITED STATES MAGISTRATE JUDGE
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